

**LETTER OF FINDINGS: 01-20221399**  
**Indiana Individual Income Tax**  
**For The Tax Year 2018**

**NOTICE:** IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

### **HOLDING**

Individual met the burden of proving that the proposed assessment was overstated. Based on the recently revised federal Account Transcript, Individual remained responsible for additional - in a reduced amount - Indiana income tax for the 2018 tax year.

### **ISSUE**

#### **I. Indiana Individual Income Tax - Burden of Proof.**

**Authority:** IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayer protests the Department's assessment of individual income tax for 2018.

### **STATEMENT OF FACTS**

Taxpayer was an Indiana resident who filed a 2018 Indiana Full-Year Resident Individual Income Tax Return ("IT-40 Form").

The Indiana Department of Revenue ("Department") found that, for the 2018 tax year, Taxpayer had approximately \$400,000 in federal adjusted gross income - determined by Internal Revenue Service ("IRS") - beyond what was reported on his 2018 IT-40 Form. The Department concluded that Taxpayer owed additional Indiana and county income tax and, as a result, assessed Taxpayer additional income tax, interest, and penalty.

Taxpayer protested the assessment. A hearing was held. This Letter of Findings ensues. Additional facts will be provided as necessary.

#### **I. Indiana Individual Income Tax - Burden of Proof.**

### **DISCUSSION**

The Department determined that Taxpayer had an additional approximately \$400,000 in federal adjusted gross income, which was not reported on his original 2018 IT-40 Form. As a result, the Department assessed Taxpayer additional income tax, interest, and penalty.

Taxpayer disagreed with the assessment, stating the following:

Be advised I hereby protest the additional assessment[.] I realize that this additional assessment is based on the IRS claiming that I have additional income that was not accounted for due to the sale of real estate property in [another state]. I have amended my Federal tax return to show that the actual income received from the real estate sale [] was less than the IRS claimed due to the expenses associated with that real estate. . . .

The issue is whether Taxpayer demonstrated that he was not responsible for additional Indiana income tax.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). As such, the taxpayer is required to provide documentation explaining and supporting his challenge that the assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Indiana imposes a tax "on the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). To compute what is considered the resident/taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be his or her Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

In this instance, the Department determined that Taxpayer underreported his federal adjusted gross income on his original 2018 return. Taxpayer disagreed and provided a copy of a court decision and a copy of his 2018 federal Account Transcript to support his protest.

Upon review, Taxpayer's supporting documentation demonstrated that, in adjusting Taxpayer's 2018 filing, IRS initial assessment included the \$400,000 income without considering basis and expenses associated with that real property in question. The federal tax court subsequently issued a decision, which reduced the IRS assessment based on an amount both Taxpayer and IRS agreed. Taxpayer's documentation further showed that IRS adjusted Taxpayer's tax liability to reflect the agreed amount pursuant to the court decision.

In short, Taxpayer provided the verifiable federal Account Transcript to substantiated that his federal adjusted gross income has been revised pursuant to the court decision. Taxpayer met his burden of proving that the Department's initial proposed assessment was overstated. But without additional verifiable information concerning the tax paid to another state, the amount attributable to the sale of real property was Taxpayer's income subject to Indiana income tax pursuant to the above referenced Indiana law. As such, Taxpayer remained responsible for the adjusted amount.

Based on Taxpayer's federal Account Transcript, the Department will correct and revise the assessment accordingly.

### FINDING

Taxpayer's protest is sustained in part and respectfully denied in part. Based on Taxpayer's federal Account Transcript, the Department will revise the assessment accordingly.

February 10, 2023

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